

## Message Text

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12  
ORIGIN L-02

INFO OCT-01 ARA-06 ISO-00 CPR-01 A-01 PER-01 PPT-01 SCA-01

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DRAFTED BY L/M:JABOYD:EJS  
APPROVED BY L/M:KEMALMBORG  
ARA/BR: R. ELSE  
ARA/EX MR. LINVILLE

----- 087365

R 100020Z MAY 75  
FM SECSTATE WASHDC  
TO AMEMBASSY BRASILIA  
INFO AMCONSUL RIO DE JANEIRO  
AMCONSUL SAO PAULO

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E.O. 11652 N/A  
TAGS:AFSP BR  
SUBJECT:POSSIBLE WAIVER OF IMMUNITY BY DEPENDENTS  
REF: A) BRASILIA 2317; B) STATE 75757; C) BRASILIA 2516;  
D) BRASILIA 2973

1. EMBASSY REQUESTED FAVORABLE REVIEW OF WAIVER OF IMMUNITY OF REQUEST ON PART OF MRS. FANCHON SILBERSTEIN, MRS. SIDNEY D. HEFLIN, MRS. JUDY MILLER ON BASIS OF INFORMATION PROVIDED BY OFFICE OF PROTOCOL OF GOB TO EFFECT THAT IN ORDER FOR DEPENDENTS OF AMERICAN EMPLOYEES TO WORK FOR COMPENSATION WITHIN THE ECONOMY OF BRAZIL IT IS NECESSARY TO CHANGE THE ORIGINAL VISA IN THEIR PASSPORT TO A REGULAR VISA AND TO WAIVE THEIR DIPLOMATIC IMMUNITY. DEPARTMENT REQUESTS EMBASSY TO APPROACH GOB WITH LIMITED WAIVER OF IMMUNITY ALONG WITH STATEMENT OF POLICY CONCERNING WAIVER AS OUTLINED BELOW.

2. ARTICLE 31.1.(C) OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS TO WHICH BOTH USA AND GOB ARE PARTIES  
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PROVIDES THAT A DIPLOMATIC AGENT SHALL ENJOY IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE RECEIVING STATE IN ALL CASES AND ALSO IMMUNITY FROM CIVIL AND ADMINISTRATIVE JURISDICTION EXCEPT IN CASE OF AN ACTION

RELATING TO ANY PROFESSIONAL OR COMMERCIAL ACTIVITY  
EXERCISED BY THE DIPLOMATIC AGENT IN THE RECEIVING STATE  
OUTSIDE HIS OFFICIAL FUNCTIONS. ARTICLE 37.1 PROVIDES

THAT THE MEMBERS OF THE FAMILY OF A DIPLOMATIC AGENT  
SHALL ENJOY THE PRIVILEGES AND IMMUNITIES SPECIFIED  
IN ARTICLE 31. ARTICLE 32.1 PROVIDES THAT THE IMMUNITY  
FROM JURISDICTION OF DIPLOMATIC AGENTS AND OF PERSONS  
ENJOYING IMMUNITY UNDER ARTICLE 37 MAY BE WAIVED BY  
THE SENDING STATE.

3. DEPARTMENTAL POLICY, WHICH IS CURRENTLY UNDER  
REVIEW, IS NOT TO APPROVE GENERAL WAIVER OF IMMUNITY  
FOR DIPLOMATIC DEPENDENTS. WITH REGARD CIVIL AND  
ADMINISTRATIVE REMEDIES SUCH WAIVER IS UNNECESSARY  
SINCE DIPLOMATIC AGENTS AND MEMBERS OF HIS FAMILY HAVE  
NO IMMUNITY WITH REGARD TO OUTSIDE PROFESSIONAL AND  
COMMERCIAL ACTIVITIES SUCH AS THOSE WHICH THE THREE  
NAMED PERSONS SEEK TO PERFORM AS OUTLINED IN REFTELS  
A, C, AND D. IF A CRIMINAL ACTION WERE TO ARISE FROM

SUCH PROFESSIONAL ACTIVITIES, DEPARTMENTAL POLICY IS TO  
CONSIDER WAIVER ON A CASE BY CASE BASIS.

4. DEPT REALIZES THAT ABOVE MAY NOT MEET REQUEST OF GOB  
WHICH APPEARS TO HAVE ASKED FOR COMPLETE WAIVER OF IM-  
MUNITY AT THIS TIME. DEPT CAN ONLY REPLY THAT USG DOES  
NOT REQUIRE COMPLETE WAIVER OF IMMUNITY AND NEW VISA  
FOR DEPENDENTS OF DIPLOMATS ASSIGNED TO US TO ENGAGE  
IN CERTAIN PROFESSIONAL ACTIVITY OUTSIDE OFFICIAL  
FUNCTIONS.

5. DEPT REQUESTS EMBASSY TO APPROACH GOB ON BASIS OF  
EXISTING LIMITATIONS ON CIVIL IMMUNITY CONTAINED IN  
ARTICLE 31 OF VIENNA CONVENTION AND STATEMENT OF

GENERAL POLICY CONCERNING USE OF ARTICLE 32 AS DESCRIBED  
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ABOVE. IF EMBASSY IS NOT SUCCESSFUL, RESPOND WITH  
REACTION OF GOB SO THAT DEPT CAN CONSIDER EMBASSY'S  
RESPONSE IN CONTEXT OF POLICY REVIEW OF THIS QUESTION. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 18 AUG 1999  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 10 MAY 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** MorefiRH  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975STATE109306  
**Document Source:** ADS  
**Document Unique ID:** 00  
**Drafter:** L/M:JABOYD:EJS  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** n/a  
**Film Number:** n/a  
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**Office:** n/a  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:**  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** A) BRASILIA 2317; B) STATE 75757; C) BRASILIA 2516; D) BRASILIA 2973  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** MorefiRH  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 03 APR 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <03 APR 2003 by ElyME>; APPROVED <21 MAY 2003 by MorefiRH>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
05 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** POSSIBLE WAIVER OF IMMUNITY BY DEPENDENTS  
**TAGS:** AFSP BR  
**To:** BRASILIA INFO RIO DE JANEIRO  
SAO PAULO  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006